

Regular Session, 2009

HOUSE BILL NO. 766

BY REPRESENTATIVE ABRAMSON

AN ACT

To amend and reenact R.S. 33:9091.6, relative to the Upper Hurstville Security District; to provide relative to the purpose, governance, powers, and duties of the district; to provide relative to the funding of the district, including the levy of a parcel fee; to provide for the merger of the district or a part thereof with another district or a part thereof; to provide for indemnification and exculpation of board members; and to provide for related matters.

Notice of intention to introduce this Act has been published as provided by Article III, Section 13 of the Constitution of Louisiana.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 33:9091.6 is hereby amended and reenacted to read as follows:

§9091.6. Upper Hurstville Security District

A. Creation. There is hereby created within the parish of Orleans, as more specifically provided in Subsection B of this Section, a body politic and corporate which shall be known as the Upper Hurstville Security District, referred to in this Section as the "district". The district shall be a political subdivision of the state as defined in the Constitution of Louisiana.

B. Boundaries. The boundaries of the district shall be that area aligned within the following perimeter: Exposition Boulevard to Prytania Street to Nashville Avenue to Magazine Street and back to Exposition Boulevard.

C. Purpose. The district is established for the primary object and purpose of promoting and encouraging security in the area included within the district and promoting and encouraging the overall betterment of the district.

1 D. Governance. (1) ~~In order to provide for the orderly development of the~~
2 ~~district and effectuation of the services to be furnished by the district and to provide~~
3 ~~for the representation in the affairs of the district of those persons and interests~~
4 ~~immediately concerned with and affected by security in the area, the~~ The district
5 shall be managed by a nine-member board of commissioners, referred to in this
6 Section as the "board". The board shall be composed as follows:

7 (a) The president of the Upper Hurstville Residents Association.

8 (b) The board of directors of the Upper Hurstville Residents Association
9 shall appoint four members.

10 (c) The mayor of the city of New Orleans shall appoint one member to the
11 board from a list of nominations submitted by the Upper Hurstville Residents
12 Association.

13 (d) The state representative for the House of Representatives district which
14 encompasses all or the greater portion of the area of the district shall appoint one
15 member from a list of nominations submitted by the Upper Hurstville Residents
16 Association.

17 (e) The state senator for the Senate district encompassing all or the greater
18 portion of the area of the district shall appoint one member from a list of nominations
19 submitted by the Upper Hurstville Residents Association.

20 (f) The member of the governing authority of the city of New Orleans whose
21 council district encompasses all or the greater portion of the area of the security
22 district shall appoint one member from a list of nominations submitted by the Upper
23 Hurstville Residents Association.

24 (2) All members of the board shall be residents of the district.

25 (3)(a) Board members serving pursuant to Subparagraphs (1)(b) through (f)
26 of this Subsection shall serve four-year terms after initial terms as provided in this
27 Subparagraph. Two members shall serve an initial term of one year; two shall serve
28 an initial term of two years; two shall serve an initial term of three years; and two
29 shall serve an initial term of four years, as determined by lot ~~at the first meeting of~~
30 ~~the board.~~

1 (b) The member serving pursuant to Subparagraph (1)(a) of this Subsection
2 shall serve during his term of office as president of the Upper Hurstville Residents
3 Association.

4 (c) Any vacancy which occurs prior to the expiration of the term for which
5 a member of the board has been appointed shall be filled for the remainder of the
6 unexpired term in the same manner as the original appointment. Board members
7 shall be eligible for reappointment.

8 (4) The board shall elect from its members a chairman, a vice chairman, a
9 ~~secretary-treasurer~~, secretary, a treasurer, and such other officers as it may deem
10 necessary. The duties of the officers shall be fixed by the bylaws adopted by the
11 board.

12 (5) The minute books and archives of the district shall be maintained by the
13 secretary or the treasurer of the board. The monies, funds, and accounts of the
14 district shall be in the official custody of the board.

15 (6) The board shall adopt such rules and regulations as it deems necessary
16 or advisable for conducting its business affairs. Rules and regulations of the board
17 relative to the notice and conduct of meetings shall conform to applicable law,
18 including laws relative to open meetings. The board ~~It~~ shall hold regular meetings
19 as shall be provided for in the bylaws and may hold special meetings at such times
20 and places within the district as may be prescribed in the bylaws.

21 (7) A majority of the members of the board shall constitute a quorum for the
22 transaction of business. The board shall keep minutes of all meetings and shall make
23 them available through the secretary of the board to residents of the district.

24 (8) The members of the board shall serve without compensation but shall be
25 reimbursed for their reasonable out-of-pocket expenses directly related to the
26 governance of the district.

27 (9) Each member of the board shall have one vote. The vote of a majority
28 of the members of the board present and voting, a quorum being present, shall be
29 required to decide any question upon which the board takes action.

1 ~~E. Plan. (1) The board shall prepare or cause to be prepared a plan or plans,~~
2 ~~referred to in this Section as the "plan", specifying the public improvements,~~
3 ~~facilities, and services proposed to be furnished, constructed, or acquired for the~~
4 ~~district, and it shall conduct such hearings, publish such notice with respect thereto,~~
5 ~~and disseminate such information as it, in the exercise of its sound discretion, may~~
6 ~~deem to be appropriate or advisable and in the public interest.~~

7 ~~(2) Any plan shall include:~~

8 ~~(a) An estimate of the annual and aggregate cost of acquiring, constructing,~~
9 ~~or providing the services, improvements, or facilities set forth in the plan;~~

10 ~~(b) An estimate of the aggregate number of mills or rate of fees required to~~
11 ~~be levied in each year on the taxable real property within the district in order to~~
12 ~~provide the funds required for the implementation or effectuation of the plan for~~
13 ~~furnishing the services specified and for capital improvements, or both.~~

14 E. Powers and duties. The district, acting through its board, shall have the
15 following powers and duties:

16 (1) To sue and be sued.

17 (2) To adopt, use, and alter at will a corporate seal.

18 (3) To receive and expend funds collected pursuant to Subsection F of this
19 Section and in accordance with a budget adopted as provided by Subsection H of this
20 Section.

21 (4) To enter into contracts with individuals or entities, private or public.

22 (5) To provide or enhance security patrols in the district, to provide for
23 improved lighting, signage, or matters relating to the security of the district, to
24 provide for the improvements of the district, or to provide generally for the overall
25 betterment of the district.

26 (6) To enter into contracts and agreements with one or more other districts
27 for the joint security, improvement, or betterment of all participating districts.

28 (7) To provide for such services and make such expenditures as the board
29 deems proper for the upkeep of the district.

1 (8) To acquire or lease items and supplies which the board deems
2 instrumental to achieving the purposes of the district.

3 (9) To acquire, lease, insure, and sell real property within the boundaries of
4 the district.

5 (10) To procure and maintain liability insurance against any personal or legal
6 liability of a board member that may be asserted or incurred based upon his service
7 as a member of the board or that may arise as a result of his actions taken within the
8 scope and discharge of his duties as a member of the board.

9 (11) To perform or have performed any other function or activity necessary
10 or appropriate to carry out the purposes of the district or for the overall betterment
11 of the district.

12 ~~F. Taxing authority. (1) The governing authority of the city of New Orleans~~
13 ~~is hereby authorized to levy and collect special taxes or fees, as authorized by the~~
14 ~~Upper Hurstville Security District, subject to and in accordance with the provisions~~
15 ~~of this Subsection.~~

16 ~~(2) The amount of the tax or fee shall be as requested by duly adopted~~
17 ~~resolution of the board of commissioners. The tax shall be a special ad valorem tax~~
18 ~~levied on taxable property in the district and shall not exceed nineteen mills. The fee~~
19 ~~shall be a flat fee levied on each parcel located in the district and shall not exceed~~
20 ~~five hundred dollars per parcel per year.~~

21 ~~(3)(a) A tax or fee shall be imposed only after the question of its imposition~~
22 ~~has been approved by a majority of registered voters of the district voting at a~~
23 ~~regularly scheduled primary or general election held for that purpose in accordance~~
24 ~~with the Louisiana Election Code. No other election shall be required except as~~
25 ~~provided by this Paragraph.~~

26 ~~(b) The tax or fee shall expire at the time provided in the proposition~~
27 ~~authorizing the tax or fee, not to exceed eight years from its initial imposition, but~~
28 ~~the tax or fee may be renewed as provided in Subparagraph (a) of this Paragraph.~~
29 ~~Any election to authorize the renewal of the tax or fee shall be held only at the same~~
30 ~~time as the mayoral primary election. If renewed, the term of the imposition of the~~

1 ~~tax or fee shall be as provided in the proposition authorizing such renewal, not to~~
2 ~~exceed eight years.~~

3 ~~(4) No such tax or fee shall be levied until a plan requiring or requesting the~~
4 ~~levy of a tax or fee is finally and conclusively adopted pursuant of the provisions of~~
5 ~~Subsection E of this Section.~~

6 ~~(5)(a) The tax or fee shall be collected in the same manner and at the same~~
7 ~~time as all other ad valorem taxes on property subject to taxation by the city are~~
8 ~~levied and collected.~~

9 ~~(b) Any tax or fee which is unpaid shall be added to the tax rolls of the city~~
10 ~~and shall be enforced with the same authority and subject to the same penalties and~~
11 ~~procedures as unpaid ad valorem taxes.~~

12 ~~(6) The proceeds of such tax or fee shall be used solely and exclusively for~~
13 ~~the purpose and benefit of the district; however, the city may retain one percent of~~
14 ~~the amount collected as a collection fee. The proceeds shall be paid over to the~~
15 ~~Board of Liquidation, City Debt, day by day as the same are collected and received~~
16 ~~by the appropriate officials of the city of New Orleans and maintained in a separate~~
17 ~~account. The proceeds shall be paid out by the Board of Liquidation, City Debt,~~
18 ~~solely for the purposes provided in this Section upon warrants or drafts drawn on the~~
19 ~~Board of Liquidation, City Debt, by the appropriate officials of the city and the~~
20 ~~treasurer of the district.~~

21 F. Parcel fee. The governing authority of the city of New Orleans is hereby
22 authorized to impose and collect a parcel fee within the district subject to and in
23 accordance with the provisions of this Subsection:

24 (1) The amount of the fee shall be as requested by duly adopted resolution
25 of the board. The fee shall be a flat fee per parcel of land. The fee shall not exceed
26 six hundred fifty dollars per year.

27 (2)(a) The fee shall be imposed on each parcel located within the district
28 except as provided in Paragraph (4) of this Subsection.

1 **(b) For purposes of this Section, "parcel" means a lot, a subdivided portion**
2 **of ground, an individual tract, or a "condominium parcel" as defined in R.S.**
3 **9:1121.103.**

4 **(c) The owner of each parcel shall be responsible for payment of the fee.**

5 **(3)(a) The fee shall be imposed only after the question of its imposition has**
6 **been approved by a majority of the registered voters of the district who vote on the**
7 **proposition at an election held for that purpose in accordance with the Louisiana**
8 **Election Code. The amount of the fee may be changed by duly adopted resolution**
9 **of the board, not to exceed the maximum amount authorized as provided in this**
10 **Subsection. No other election shall be required except as provided by this**
11 **Paragraph.**

12 **(b) The fee shall expire eight years after its initial levy but may be renewed**
13 **if approved by a majority of the registered voters of the district voting on the**
14 **proposition at an election as provided in Subparagraph (a) of this Paragraph. Any**
15 **election to authorize the renewal of the fee shall be held only at the same time as the**
16 **mayoral primary election for the city of New Orleans. If the fee is renewed, the term**
17 **of the imposition of the fee shall be as provided in the proposition authorizing such**
18 **renewal, not to exceed eight years.**

19 **(4) No fee shall be imposed upon any parcel whose owner qualifies for the**
20 **special assessment level provided by Article VII, Section 18(G)(1) of the**
21 **Constitution of Louisiana.**

22 **(5) The fee shall be collected at the same time and in the same manner as ad**
23 **valorem taxes on property subject to taxation by the city are collected.**

24 **(6) Any parcel fee which is unpaid shall be added to the tax rolls of the city**
25 **and shall be enforced with the same authority and subject to the same penalties and**
26 **procedures as unpaid ad valorem taxes.**

27 **(7)(a) The proceeds of the fee shall be used solely and exclusively for the**
28 **purpose and benefit of the district; however, the city may retain one percent of the**
29 **amount collected as a collection fee.**

1 **(b) The city of New Orleans shall remit to the district all amounts collected**
2 **not more than sixty days after collection.**

3 **G. Additional contributions. The district is authorized to solicit and accept**
4 **additional voluntary contributions and grants to further the purposes of the district.**

5 **G. H. Budget. (1) The board of commissioners shall adopt an annual budget**
6 **in accordance with the Local Government Budget Act, R.S. 39:1301 et seq.**

7 **(2) The district shall be subject to audit by the legislative auditor pursuant**
8 **to R.S. 24:513.**

9 **H. I. Miscellaneous provisions. (1) The district, through the board, shall**
10 **have the power to acquire, lease, insure, and sell real property within its boundaries**
11 **in accordance with district plans. It is the purpose and intent of this Section that any**
12 **additional security patrols, public or private, or any other security or other services**
13 **or betterments provided by the district shall be supplemental to and not be in lieu of**
14 **personnel and services to be provided in the district by the state or the city of New**
15 **Orleans or their departments or agencies or by other political subdivisions.**

16 **(2) The district, through the board, may contract with the New Orleans**
17 **Police Department or with a private security company which has been certified by**
18 **the superintendent of the New Orleans Police Department for the provision of**
19 **security patrols in the district. It is the purpose and intent of this Section that any**
20 **additional security patrols, public or private, provided by the district shall be**
21 **supplemental to and not in lieu of personnel and services provided in the district by**
22 **the New Orleans Police Department.**

23 **J. Merger and dissolution. (1) A majority of the area covered by the district**
24 **may be merged with the majority of the area covered by another district that serves**
25 **similar purposes without the vote of the registered voters of the district, if such**
26 **merger is approved by resolution of the board of each such district by the affirmative**
27 **vote of not less than five members of each respective board. Such merger may create**
28 **a new district comprised of the majority of the area of each district or provide that**
29 **the merged portion of one district shall become a part of the other district. If the**
30 **merger creates a new district, the resolution of each board shall also provide for the**

1 dissolution of the respective district. If the merger merges a part of one district into
2 another district, the resolution of the district of which part is being merged into
3 another district shall also provide for the dissolution of the district. Such resolutions
4 shall provide for the effective date of the merger and the dissolution of the district
5 or districts and for the imposition of a uniform fee as levied pursuant to Subsection
6 F of this Section. If a major portion of the area of a district is merged into a new
7 district or into another district in accordance with this Paragraph, the funds of the
8 district that relate to the portion of the district that is included in the new district or
9 the other district, as the case may be, together with any other funds that relate to such
10 portion of the district that are collected by the city of New Orleans pursuant to law
11 relative to the district, shall be transferred to the new or other district to be used for
12 purposes of such district. The remaining portion of funds, if any, shall be transmitted
13 by the board to the city of New Orleans, and such funds shall be used only for law
14 enforcement, security, improvement, and beautification purposes of the area that was
15 formerly within the district but is not included in the merged district.

16 (2) The legal authority for any district created by merger or for the merger
17 of a part of a district into an existing district, as authorized by Paragraph (1) of this
18 Subsection, shall terminate sixty days after the next regularly scheduled mayoral
19 primary election after such merger is effective unless such merger is approved by a
20 majority of the voters of the merged district voting on the proposition at a regularly
21 scheduled election prior to such termination date.

22 K. Indemnification and exculpation. (1) The district shall indemnify its
23 officers and board members to the fullest extent permitted by R.S. 12:227, as fully
24 as if the district were a nonprofit corporation governed thereby, and as may be
25 provided in the district's bylaws.

26 (2) No board member or officer of the district shall be liable to the district
27 or to any individual who resides, owns property, visits, or otherwise conducts
28 business in the district for monetary damages for breach of his duties as a board
29 member or officer, provided that the foregoing provision shall not eliminate or limit
30 the liability of a board member or officer for any of the following:

- 1 (a) Acts or omissions not in good faith or which involve intentional
2 misconduct or a knowing violation of law.
- 3 (b) Any transaction from which he derived an improper personal benefit.
- 4 (3) To the fullest extent permitted by R.S. 9:2792 et seq., including R.S.
5 9:2792.1 through 2792.9, a person serving the district as a board member or officer
6 shall not be individually liable for any act or omission arising out of the performance
7 of his duties.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____